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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/025,581

12/18/2001

John Thompson

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27683 7590 12/20/2006  
HAYNES AND BOONE, LLP  
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EXAMINER

VAN DOREN, BETH

ART UNIT

PAPER NUMBER

3623

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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3 MONTHS

12/20/2006

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

**Office Action Summary**

Application No.

10/025,581

Applicant(s)

THOMPSON, JOHN

Examiner

Beth Van Doren

Art Unit

3623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 27 November 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### DETAILED ACTION

1. The following is a non-final office action in response to the after-final communications received 11/27/06. Based on these communications, prosecution has been reopened. Claims 1-8, 10-17, and 26 have been canceled. Claim 9 is pending and is addressed below.

#### *Claim Rejections - 35 USC § 112*

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 9 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 9 sets forth a system in the preamble of the claim. However, it is not clear in the body of the claim as to what the structure of the system is. Claim 9 comprises a series of modules along with a client device. It is not clear what is implied by these modules. It is specifically not clear if the modules are on the client device or if they are separate from the client (such as in a separate memory or device). Thus the structure of the system of claim 9 is indefinite. Clarification is required.

Claim 9 also recites in the second element in the body of the claim "prioritized according to a status of the assigned tasks and [...]". There is insufficient antecedent basis for this limitation in the claim. This limitation has been construed as --prioritized according to a status of assigned tasks and [...]--. Clarification is required.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claim 9 is rejected under 35 U.S.C. 102(e) as being anticipated by Hunter et al. (U.S. 2002/0040313).

As per claim 9, Hunter et al. teaches a system of workforce optimization comprising:  
a task module for generating a plurality of tasks from a plurality of requests from a plurality of suppliers, wherein the tasks are to be performed at retail stores (See figures 6-7, paragraphs 8, 27, 32, 41, 43, 53, wherein the manager inputs activities and positions (with criteria) into the system which causes the generation in the system of tasks needed by the user. Since this is a system claim, since the system of Hunter et al. is capable of generating tasks based on information input by a user, it does not matter who the specific user is);

a prioritizing module for prioritizing the tasks, wherein the tasks are prioritized according to a status of assigned tasks and a plurality of opportunity based retail factors, wherein the opportunity based retail factors include velocity of a retail location, number of new products for the retail location, weighted importance of the number of new products, number of non-scanned products, weighted importance of the number of non-scanned products, number of tasks to be performed at the retail location, weight importance of the tasks to be performed at the retail

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location, a value associated with a length of time since a task was last performed at the retail location, weighted importance of the value associated with a length of time (See figures 6 and 7, paragraphs 8, 27, 32, 41, 43, 53, wherein tasks are prioritized and assigned based on the status of other tasks (already assigned and/or in the queue) as well as the factors of number of tasks to be performed (i.e. workload, dispatch queue, and currently assigned tasks) and weight importance of the tasks to be performed (wherein the tasks are assigned priority values));

a routing module for assigning one of the prioritized tasks to a member of the workforce (See paragraphs 8, 27, 32, 41, 43, 53. Assigned tasks are routed to the worker who performs the task. See also 25-6);

a client for rendering the assigned task to the assigned member and collecting the status of the task from the member (See paragraphs 8, 23, 25, 27, 32, 41, 43, wherein tasks are assigned and worker status and tasks status is known to the system).

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Beth Van Doren whose telephone number is (571) 272-6737.

The examiner can normally be reached on M-F, 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz can be reached on (571) 272-6729. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

*bvd*

bvd

December 13, 2006

*Beth Van Doren*  
Beth Van Doren  
AU 3623